

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DEBORAH RAMIREZ,

Plaintiff,

v.

SMITH, CARROAD, LEVY, WAN & PARIKH, P.C.
And PRAGNA PARIKH,

Defendants.

**Docket No.: 1:23-cv-04355-
AT**

ANSWER

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Defendants SMITH, CARROAD, LEVY, WAN & PARIKH, P.C. n/k/a SMITH
CARROAD WAN & PARIKH, P.C., and PRAGNA PARIKH by their attorneys, Furman,
Kornfeld & Brennan, LLP, as and for Defendants' answer to the Complaint, allege upon
information and belief:

Summary of Claims

Denies each and every allegation contained in the Summary of Claims of the Complaint.

A. JURISDICTION AND VENUE

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph "1" of the Complaint and refers all questions of law to the Court.
2. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph "2" of the Complaint and refers all questions of law to the Court.

B. PARTIES

3. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph "3" of the Complaint.

4. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “4” of the Complaint except admits Defendant is a law firm in NY State that at times engages in debt collection action.

5. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “5” of the Complaint except admits Defendant is a law firm in NY State that at times engages in debt collection action.

6. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “6” of the Complaint except admits Defendant is a law firm in NY State that at times engages in debt collection action.

7. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “7” of the Complaint except admits Defendant is a law firm in NY State that at times engages in debt collection action.

C. STATEMENT OF FACTS

8. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “8” of the Complaint.

9. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “9” of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “10” of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “11” of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “12” of the Complaint.

13. The documents referred to in paragraph “13” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

14. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “14” of the Complaint.

15. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “15” of the Complaint.

16. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “16” of the Complaint.

17. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “17” of the Complaint.

18. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “18” of the Complaint.

19. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “19” of the Complaint.

20. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “20” of the Complaint.

21. Denies each and every allegation contained in Paragraph “21” of the Complaint except admit Defendants filed a lawsuit against Plaintiff to collect a debt which was venued in Albany pursuant to the venue provisions in the loan agreement signed by Plaintiff.

22. Denies each and every allegation contained in Paragraph “22” of the Complaint except admit Defendants filed a lawsuit against Plaintiff to collect a debt which was venued in Albany pursuant to the venue provisions in the loan agreement signed by Plaintiff.

23. The documents referred to in paragraph “23” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

24. The documents referred to in paragraph “24” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

25. Denies each and every allegation contained in Paragraph “25” of the Complaint.

26. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “26” of the Complaint and refers all questions of law to the Court.

27. Paragraph “27” of the Complaint does not state an allegation or factual assertion concerning Defendants and no answer is required. To the extent a response is required, such allegations are denied.

28. Paragraph “28” of the Complaint does not state an allegation or factual assertion concerning Defendants and no answer is required. To the extent a response is required, such allegations are denied.

29. Denies each and every allegation contained in Paragraph “29” of the Complaint.

30. Denies each and every allegation contained in Paragraph “30” of the Complaint.

31. Denies each and every allegation contained in Paragraph “31” of the Complaint.

32. Denies each and every allegation contained in Paragraph “32” of the Complaint.

33. Denies each and every allegation contained in Paragraph “33” of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “34” of the Complaint.

35. Denies each and every allegation contained in Paragraph “35” of the Complaint.

36. Denies each and every allegation contained in Paragraph “36” of the Complaint.

37. Denies each and every allegation contained in Paragraph “37” of the Complaint except admit that Plaintiff spoke to a representative of Defendant.

38. Denies each and every allegation contained in Paragraph “38” of the Complaint.

39. Denies each and every allegation contained in Paragraph “39” of the Complaint.

40. Denies each and every allegation contained in Paragraph “40” of the Complaint.

41. Denies each and every allegation contained in Paragraph “41” of the Complaint.

42. Denies each and every allegation contained in Paragraph “42” of the Complaint.

43. Denies each and every allegation contained in Paragraph “43” of the Complaint.

44. Denies each and every allegation contained in Paragraph “44” of the Complaint.

45. Denies each and every allegation contained in Paragraph “45” of the Complaint.

46. Denies each and every allegation contained in Paragraph “46” of the Complaint.

47. Denies each and every allegation contained in Paragraph “47” of the Complaint.

48. Denies each and every allegation contained in Paragraph “48” of the Complaint.

49. Denies each and every allegation contained in Paragraph “49” of the Complaint.

50. Denies each and every allegation contained in Paragraph “50” of the Complaint.

51. Denies each and every allegation contained in Paragraph “51” of the Complaint.

52. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “52” of the Complaint.

53. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “53” of the Complaint.

54. The documents referred to in paragraph “54” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

55. The documents referred to in paragraph “55” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

56. The documents referred to in paragraph “56” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

57. The documents referred to in paragraph “57” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

58. The documents referred to in paragraph “58” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

59. Denies each and every allegation contained in Paragraph “59” of the Complaint.

60. The documents referred to in paragraph “60” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

61. Denies each and every allegation contained in Paragraph “61” of the Complaint.

62. Denies each and every allegation contained in Paragraph “62” of the Complaint.

63. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “63” of the Complaint.

64. The documents referred to in paragraph “64” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

65. The documents referred to in paragraph “65” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

66. The documents referred to in paragraph “66” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

67. The documents referred to in paragraph “67” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

68. The documents referred to in paragraph “68” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

69. The documents referred to in paragraph “69” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

70. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “70” of the Complaint.

71. The documents referred to in paragraph “71” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

72. The documents referred to in paragraph “72” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

73. Denies each and every allegation contained in Paragraph “73” of the Complaint.

74. The documents referred to in paragraph “74” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

75. The documents referred to in paragraph “75” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

76. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “76” of the Complaint.

77. The documents referred to in paragraph “77” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

78. The documents referred to in paragraph “78” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

79. Denies each and every allegation contained in Paragraph “79” of the Complaint.

80. Denies each and every allegation contained in Paragraph “80” of the Complaint.

81. The documents referred to in paragraph “81” speak for themselves, and therefore no response is necessary. To the extent a response is required, such allegations are denied.

82. Denies each and every allegation contained in Paragraph “82” of the Complaint.

83. Denies each and every allegation contained in Paragraph “83” of the Complaint.

84. Denies each and every allegation contained in Paragraph “84” of the Complaint.

85. Denies each and every allegation contained in Paragraph “85” of the Complaint.

86. Denies each and every allegation contained in Paragraph “86” of the Complaint.

87. Denies each and every allegation contained in Paragraph “87” of the Complaint.

88. Denies each and every allegation contained in Paragraph “88” of the Complaint.

89. Denies each and every allegation contained in Paragraph “89” of the Complaint.

90. Denies each and every allegation contained in Paragraph “90” of the Complaint.

91. Denies each and every allegation contained in Paragraph “91” of the Complaint.

92. Denies each and every allegation contained in Paragraph “92” of the Complaint.

93. Denies each and every allegation contained in Paragraph “93” of the Complaint.

94. Denies each and every allegation contained in Paragraph “94” of the Complaint.

95. Denies each and every allegation contained in Paragraph “95” of the Complaint.

96. Denies each and every allegation contained in Paragraph “96” of the Complaint.

97. Denies each and every allegation contained in Paragraph “97” of the Complaint.

98. Denies each and every allegation contained in Paragraph “98” of the Complaint.

99. Denies each and every allegation contained in Paragraph “99” of the Complaint.

100. Denies each and every allegation contained in Paragraph “100” of the Complaint.

101. Denies each and every allegation contained in Paragraph “101” of the Complaint.

102. Denies each and every allegation contained in Paragraph “102” of the Complaint.

103. Denies each and every allegation contained in Paragraph “103” of the Complaint.

104. Denies each and every allegation contained in Paragraph “104” of the Complaint.

105. Denies each and every allegation contained in Paragraph “105” of the Complaint.

106. Denies each and every allegation contained in Paragraph “106” of the Complaint.

107. Denies each and every allegation contained in Paragraph “107” of the Complaint.

108. Denies each and every allegation contained in Paragraph “108” of the Complaint.

109. Denies each and every allegation contained in Paragraph “109” of the Complaint.

110. Denies each and every allegation contained in Paragraph “110” of the Complaint.

111. Denies each and every allegation contained in Paragraph “111” of the Complaint.

COUNT 1: FAIR DEBT COLLECTION PRACTICES ACT (as to Attorney Defendants)

112. In response to Paragraph “112” Defendant repeats, reiterates and realleges each and every response as previously set forth in Paragraphs “1” through “111” with the same force and effect as if fully set forth at length.

113. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “113” of the Complaint and refers all questions of law to the Court.

114. There is no allegation contained in Paragraph “114” of the Complaint for which an answer is necessary. To the extent an answer is required, such allegations are denied.

115. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “115” of the Complaint and refers all questions of law to the Court.

116. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “116” of the Complaint and refers all questions of law to the Court.

117. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraph “117” of the Complaint and refers all questions of law to the Court.

118. Denies each and every allegation contained in Paragraph “118” of the Complaint.

119. Denies each and every allegation contained in Paragraph “119” of the Complaint.

120. Denies each and every allegation contained in Paragraph “120” of the Complaint.

121. Denies each and every allegation contained in Paragraph “121” of the Complaint.

122. Denies each and every allegation contained in Paragraph “122” of the Complaint

except admit Defendants’ did not owe or violate any duty to Plaintiff.

COUNTS 2 AND 3: NEGLIGENCE AND GROSS NEGLIGENCE (As to All Defendants)

123. In response to Paragraph “123” Defendant repeats, reiterates and realleges each and every response as previously set forth in Paragraphs “1” through “122” with the same force and effect as if fully set forth at length.

124. Denies each and every allegation contained in Paragraph “124” of the Complaint except admit Defendants did not owe or violate any duty to Plaintiff.

125. Denies each and every allegation contained in Paragraph “125” of the Complaint except admit Defendants did not owe or violate any duty to Plaintiff.

126. Denies each and every allegation contained in Paragraph “126” of the Complaint.

127. Denies each and every allegation contained in Paragraph “127” of the Complaint except admit Defendants did not owe or violate any duty to Plaintiff.

128. Denies each and every allegation contained in Paragraph “128” of the Complaint.

129. Denies each and every allegation contained in Paragraph “129” of the Complaint.

130. Denies each and every allegation contained in Paragraph “130” of the Complaint.

131. Denies each and every allegation contained in Paragraph “131” of the Complaint.

F. JURY DEMAND

132. No response is necessary.

PRAYER

133. Denies each and every allegation contained in the Prayer for Relief.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

134. Plaintiff fails to state a cause of action against Defendants for which relief may be granted and the Complaint should be dismissed.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

135. Plaintiff's Complaint fails to establish that Defendants' conduct constituted a violation of the Fair Debt Collection Practices Act.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

136. Documentary evidence contradicts the factual allegations pleaded in Plaintiffs' Complaint, which provides a complete defense to the claim asserted against Defendants.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

137. Plaintiff suffered no loss of any kind as a result of any of the acts alleged against Defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

138. Any damages suffered by Plaintiff, all of which are specifically and expressly denied, were caused entirely by the acts and omissions of third parties over whom Defendant had no control.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

139. Defendant is not the proximate cause of Plaintiff's alleged damages.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

140. Plaintiff has failed to allege the violation of any duty owed to them by Defendants.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

141. Plaintiffs alleged damages are speculative and unascertainable.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

142. Plaintiff's Complaint fails to establish that Defendants' conduct constituted negligence.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

143. Plaintiff's Complaint fails to establish that Defendants' conduct constituted gross negligence.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

144. Plaintiff's Complaint fails to establish any basis for punitive damages.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

145. Any injuries or damages incurred by Plaintiff were the result of her own actions, the actions of others, and/or the superseding intervention of causes outside the control of Defendants.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

146. Defendant reserves the right to assert additional affirmative defenses.

WHEREFORE, Defendants hereby demand judgment dismissing the Complaint, together with the costs and disbursements of the within action.

Dated: New York, New York
August 2, 2023

FURMAN KORNFELD & BRENNAN LLP

By: Asher Kest
Aaron M. Barham, Esq.
Asher Kest, Esq.
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File No.: 313.536

PROOF OF SERVICE

I hereby certify that on August 2, 2023, I caused a copy of Defendants SMITH CARROAD WAN & PARIKH, P.C. and PRAGNA PARIKH's Answer to Plaintiff's Complaint to be served on counsel for all parties via the Court's ECF filing system.

FURMAN KORNFELD & BRENNAN LLP

By: /s/ Asher Kest
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